




# City of Santa Fe, New Mexico


## Memorandum



**Date:** August 5, 2021

**To:** Quality of Life Committee, Finance Committee, and Governing Body

**Via:** Erin K. McSherry, City Attorney   
EM

**From:** Marcos D. Martinez, Senior Assistant City Attorney   
MM

**RE:** Accepting Electronic Signatures Bill

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### EXECUTIVE SUMMARY:

The Bill changes three sections of the Public Campaign Finance Code (SFCC 1987 Section 9-3) to require the City Clerk to accept electronic signatures that comply with New Mexico's Uniform Electronic Transactions Act for Seed Money Contributions (Section 9-3.6(C)), Qualifying Contributions (Section 9-3.7(A)), and Qualified Small Contributions (Section 9-3.12(D)).

### BACKGROUND:

The City's campaign code requires that Seed Money Contributions, Qualifying Contributions, and Qualified Small Contributions be accompanied by a form signed by the contributor. The current ordinance allows the Ethics Campaign Review Board (ECRB) to issue rules regarding the use of an electronic signature. However, since the City's rulemaking process is not well defined, the ECRB recommended that the Governing Body provide for electronic signatures by ordinance.

The proposed bill requires the City Clerk to accept electronic signatures that comply with New Mexico's Uniform Electronic Transaction Act. The Act recognizes the legal enforceability of electronic signatures and contracts to the extent the signatures provide sufficient security. The Act also establishes requirements for records retention. Candidates have inquired about the obtaining signatures electronically and this bill will facilitate greater participation in the City's local elections.

### ACTION REQUESTED:

Approve the Bill as presented.

### ATTACHMENTS:

Bill  
Fiscal Impact Report

underscored material = new  
[bracketed material] = delete

**CITY OF SANTA FE, NEW MEXICO**

**BILL NO. 2021-\_\_**

**INTRODUCED BY:**

Councilor Michael J. Garcia

Councilor Carol Romero-Wirth

**AN ORDINANCE**

**AMENDING SECTION 9-3.6 SFCC 1987 TO EXPRESSLY RECOGNIZE THAT  
ELECTRONIC SIGNATURES ARE PERMITTED UNDER THE UNIFORM  
ELECTRONIC TRANSACTIONS ACT FOR SEED MONEY CONTRIBUTIONS ON THE  
REQUIRED FORMS; AMENDING SECTION 9-3.7 SFCC 1987 TO EXPRESSLY  
RECOGNIZE THAT ELECTRONIC SIGNATURES ARE PERMITTED UNDER THE  
UNIFORM ELEDCTRONIC TRANSACTIONS ACT FOR QUALIFYING  
CONTRIBUTIONS ON THE REQUIRED FORMS; AND AMENDING SECTION 9-3.12  
SFCC 1987 TO EXPRESSLY RECOGNIZE THAT ELECTRONIC SIGNATURES ARE  
PERMITTED UNDER THE UNIFORM ELEDCTRONIC TRANSACTIONS ACT FOR  
QUALIFIED SMALL CONTRIBUTIONS.**

**BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF SANTA FE:**

**Section 1. Section 9-3.6 of SFCC 1987 (being Ord. No. 2009-44, § 7, as amended)  
is amended to read:**

**9-3.6 Seed money contributions.**

1           A.       A candidate seeking to become a participating candidate may solicit and accept  
2 seed money contributions to defray expenses incurred in obtaining qualifying contributions and  
3 in seeking certification as a participating candidate.

4           B.       The aggregate amount of seed money contributions from any one contributor to  
5 any one candidate shall not exceed one hundred dollars (\$100.00), and the aggregate amount of  
6 seed money contributions accepted by a candidate shall not exceed ten percent (10%) of the  
7 amount payable under subsection 9-3.10 SFCC 1987 to a candidate in a contested election for  
8 the office sought.

9           C.       Each seed money contribution shall be accompanied by a form signed by the  
10 contributor, which shall include the contributor's name, home address, telephone number,  
11 occupation, and name of employer. ~~[The ethics and campaign review board may, by regulation,~~  
12 ~~permit the use of an electronic signature on such forms]~~ The city clerk shall accept electronic  
13 signatures that comply with the Uniform Electronic Transactions Act, Sections 14-16-1 through  
14 14-16-21 NMSA 1978.

15          D.       No person shall knowingly make and no candidate shall knowingly receive a  
16 seed money contribution which is not from the person named on the form or for which the person  
17 named on the form has been or will be reimbursed or compensated by another person.

18          E.       All seed money contributions received by a candidate shall be deposited in a non-  
19 interest-bearing account in a campaign depository to be established by the candidate before  
20 soliciting or accepting any such contributions. All expenditures of seed money shall be made  
21 from the campaign depository.

22          F.       Seed money contributions shall be used only for the purposes specified in  
23 paragraph A. of this subsection, and all seed money contributions that have not been spent or  
24 used for such purposes by the time the candidate applies for certification as a participating  
25 candidate or by the end of the qualifying period, whichever is sooner, shall then be paid over to

1 the city clerk for deposit in the fund; provided, however, that if payment of all of the candidate's  
2 unspent seed money to the city clerk would cause the bank account in the campaign depository  
3 to be closed, an amount of seed money necessary to keep the account open may be temporarily  
4 retained in the account and paid over to the city clerk at a later time in compliance with paragraph  
5 C. of subsection 9-3.10 SFCC 1987.

6 **Section 2. Section 9-3.7 of SFCC 1987 (being Ord. No. 2009-44, § 8, as amended)**  
7 **is amended to read:**

8 **9-3.7 Qualifying contributions.**

9 A. Each qualifying contribution shall be accompanied by a form signed by the  
10 contributor, which shall include the contributor's name, registered address and telephone number.  
11 ~~[The ethics and campaign review board may, by regulation, permit the use of an electronic signature~~  
12 ~~on such form]~~ The city clerk shall accept electronic signatures that comply with the Uniform  
13 Electronic Transactions Act, Sections 14-16-1 through 14-16-21 NMSA 1978.

14 B. No candidate or person acting on a candidate's behalf shall pay to any other  
15 person any form of compensation for soliciting or obtaining a qualifying contribution.

16 C. No person shall knowingly make and no candidate shall knowingly receive a  
17 qualifying contribution which is not from the person named on the form or for which the person  
18 named on the form has been or will be reimbursed or compensated by another person.

19 D. All qualifying contributions received by a candidate shall be deposited in a non-  
20 interest-bearing account in a campaign depository to be established by the candidate before  
21 soliciting or accepting any such contributions, and shall be paid over to the city clerk for deposit  
22 in the fund when the candidate applies for certification as a participating candidate or when the  
23 qualifying period ends, whichever is sooner.

24 **Section 3. Section 9-3.12 of SFCC 1987 (being Ord. No. 2018-28, § 9) is amended**  
25 **to read:**

1           **9-3.12 - Qualified small contributions.**

2           A.       A participating candidate may solicit and accept qualified small contributions  
3 beginning on the date on which the candidate is certified as a participating candidate pursuant to  
4 subsection 9-3.9(A) SFCC 1987.

5           B.       The aggregate amount of qualified small contributions from any one contributor  
6 to any one candidate shall not exceed one hundred dollars (\$100.00).

7           C.       The aggregate amount of qualified small contributions accepted by a  
8 participating candidate shall not exceed:

9                   (1)     For a candidate for mayor, fifty percent (50%) of the amount initially  
10 paid to the candidate pursuant to subsection 9-3.10 SFCC 1987; and

11                   (2)     For a candidate for council or municipal judge, twenty-five percent  
12 (25%) of the amount initially paid to the candidate pursuant to subsection 9-3.10 SFCC  
13 1987.

14           D.       Each qualified small contribution shall be accompanied by a form signed by the  
15 contributor, which shall include the contributor's name, home address, telephone number,  
16 occupation and name of employer. ~~[The ethics and campaign review board may, by regulation,~~  
17 ~~permit the use of an electronic signature on such forms]~~ The city clerk shall accept electronic  
18 signatures that comply with the Uniform Electronic Transactions Act, Sections 14-16-1 through  
19 14-16-21 NMSA 1978,.


20           E.       No person shall knowingly make and no candidate shall knowingly receive a  
21 qualified small contribution which is not from the person named on the form or for which the  
22 person named on the form has been or will be reimbursed or compensated by another person.

23           F.       Before soliciting or accepting qualified small contributions, a candidate shall  
24 appoint a treasurer and establish a campaign depository in the manner required by subsection 9-  
25 2.8 SFCC 1987. All qualified small contributions received by a candidate shall be recorded by

1 the candidate's campaign treasurer, deposited in a separate non-interest-bearing account in the  
2 campaign depository and used in the candidate's campaign or disposed of following the election  
3 in the manner required by subsection 9-2.9 SFCC 1987. All such contributions shall be timely  
4 reported in a campaign finance statement prepared in the manner required by subsections 9-  
5 2.10 through 9-2.12 SFCC 1987 and filed on the dates required by subsection 9-2.10 SFCC 1987.  
6 Campaign finance statements reporting the receipt of qualified small contributions shall be  
7 accompanied by copies of the forms signed by each contributor pursuant to paragraph D. of this  
8 subsection.

9 APPROVED AS TO FORM:

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12 ERIN K. MCSHERRY, CITY ATTORNEY

**FISCAL IMPACT REPORT****General Information:**(Check) Bill:   X   Resolution: \_\_\_\_\_Short Title(s): Accepting Electronic SignaturesSponsor(s): Councilors Garcia and Romero-WirthReviewing Department(s): City Clerk's Office and City Attorney's OfficeStaff Completing FIR: Marcos D. Martinez Date: 07-09-21 Phone: 955-6502Reviewed by City Attorney:  Date: Aug 6, 2021Reviewed by Finance Director:  Date: Aug 5, 2021**Summary:**

The Bill strikes language in Section 9-3.6, 9-3.7, and 9-3.12 that delegates to the Ethics and Campaign Review Board the ability to issue regulations regarding the use of electronic signatures. The Bill adds language that requires the City Clerk to accept electronic signatures that comply with the New Mexico Uniform Electronic Transactions Act.

**Departments Affected:**City Clerk and City Attorney**Consequences of Not Enacting Legislation:**

Without this legislation City Code would be inconsistent with the Uniform Electronic Transactions Act that requires the allowance of electronic signatures in any circumstance in which signatures are contemplated.

**Conflict, Duplication, Companionship, or Relationship to Other Legislation:**None identified.**Performance and Administrative Implications:**

No additional administrative burden. The Clerk retains copies of the forms regardless of the type of signature.

**Fiscal Implications:**None identified.**Fiscal Impact**  X   Check here if no fiscal impact

**Expenditures**

<b>Expenditure Type</b>	<b>FYE __</b>	<b>FYE __</b>	<b>FYE __</b>	<b>Require BAR (Y/N)</b>	<b>Recurring (R) or Non-recurring (NR)</b>	<b>Fund</b>	<b>3-Year Total Cost</b>
<u>Personnel and</u>	\$ _____	\$ _____	\$ _____	_____	_____	_____	
<u>Benefits*</u>							
<u>Capital Outlay</u>	\$ _____	\$ _____	\$ _____	_____	_____	_____	
<u>Contractual/</u>	\$ _____	\$ _____	\$ _____		_____	_____	
<u>Professional Services</u>							
<u>Operating</u>	\$ _____	\$ _____	\$ _____		_____	_____	\$ _____
<u>Total:</u>	\$ _____	\$ _____	\$ _____				\$ 0 _____

\* This includes all staff time associated with executing the job functions of the proposed legislation.

**Expenditure Narrative:**

**None identified.**

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**Revenue**

<b>Revenue Type</b>	<b>FYE __</b>	<b>FYE __</b>	<b>FYE __</b>	<b>Recurring (R) or Non-recurring (NR)</b>	<b>Fund</b>
General Fund	\$ _____	\$ _____	\$ _____	_____	_____
Special Revenue	\$ _____	\$ _____	\$ _____	_____	_____
CIP	\$ _____	\$ _____	\$ _____	_____	_____
Enterprise	\$ _____	\$ _____	\$ _____	_____	_____
Internal Service	\$ _____	\$ _____	\$ _____	_____	_____
Trust and Agency	\$ _____	\$ _____	\$ _____	_____	_____
Federal	\$ _____	\$ _____	\$ _____	_____	
Other	\$ _____	\$ _____	\$ _____	_____	_____
Total	\$ _____	\$ _____	\$ _____		

**Revenue Narrative:**

**None identified.**

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**Signature:** Marcos Martinez  
Marcos Martinez (Aug 9, 2021 08:16 MDT)

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